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DEPARTMENT OF COMMERCE

International Trade Administration

A-557-816

Certain Steel Nails from Malaysia: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination and Extension of Provisional Measures

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (Department) preliminarily determines that certain steel nails from Malaysia are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act).

The period of investigation is April 1, 2013, through March 31, 2014. The estimated weighted-average dumping margins are shown in the “Preliminary Determination” section of this notice.

Interested parties are invited to comment on this preliminary determination. The Department intends to issue the final determination 135 days after publication of this preliminary determination in the *Federal Register*.

DATES: Effective Date: (Insert date of publication in the *Federal Register*.)

FOR FURTHER INFORMATION CONTACT: Ericka Ukrow or Steve Bezirgianian, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0405 or (202) 482-1131, respectively.

## SUPPLEMENTARY INFORMATION:

### Background

The Department published the notice of initiation of this investigation on June 25, 2014.<sup>1</sup> Pursuant to section 733(c)(1)(A) of the Act, the Department postponed this preliminary determination 42 days until December 17, 2014.<sup>2</sup>

### Scope of the Investigation

The product covered by this investigation is certain steel nails from Malaysia. For a full description of the scope of the investigation, *see* Appendix I to this notice.

### Scope Comments

Several interested parties (*i.e.*, IKEA Supply AG and IKEA Distributions Services Inc. (collectively IKEA), Target Corporation, and The Home Depot) submitted comments to the Department on the scope of the investigation as it appeared in the *Initiation Notice*, and Mid Continent Steel & Wire, Inc. (Petitioner) submitted rebuttal comments. For further discussion of these comments, *see* the Preliminary Decision Memorandum.<sup>3</sup>

### Methodology

The Department conducted this investigation in accordance with section 731 of the Act. Because one of the mandatory respondents, Tag Fasteners Sdn. Bhd. (Tag), failed to respond to the Department's questionnaire, we preliminarily determined to apply facts otherwise available

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<sup>1</sup> *See Certain Steel Nails From India, the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations*, 79 FR 36019, (June 25, 2014) (*Initiation Notice*).

<sup>2</sup> *See Certain Steel Nails From the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, and the Socialist Republic of Vietnam: Postponement of Preliminary Determination of Antidumping Duty Investigations*, 79 FR 63082 (October 22, 2014).

<sup>3</sup> *See* Memorandum to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Decision Memorandum for the Preliminary Determination in the Antidumping Duty Investigation of Certain Steel Nails from Malaysia," dated concurrently with this determination and hereby adopted by this notice. A list of the topics discussed in the Preliminary Decision Memorandum appears in Appendix II, below.

with an adverse inference to this respondent pursuant to sections 776(a) and (b) of the Act. In applying adverse facts available, we are assigning Tag a dumping margin of 39.35 percent. For the other two mandatory respondents, Inmax Sdn. Bhd. (Inmax) and Region International Co., Ltd. and its collapsed affiliate, Region System Sdn. Bhd. (collectively, Region), export prices have been calculated in accordance with section 772 of the Act. Normal value has been calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.<sup>4</sup> The Preliminary Decision Memorandum is a public document and is made available to the public *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Department's Central Records Unit, located at room 7046 of the main Department of Commerce building.<sup>5</sup> In addition, a complete version of the Preliminary Decision Memorandum can be found at <http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

#### All Others Rate

Consistent with sections 733(d)(1)(A)(ii) and 735(c)(5) of the Act, the Department also calculated an estimated "all others" rate for all exporters or producers not individually investigated. Section 735(c)(5)(A) of the Act provides that the estimated "all others" rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely under section 776 of the Act. Therefore,

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<sup>4</sup> *Id.*

<sup>5</sup> Effective November 24, 2014, Enforcement and Compliance changed the name of the Import Administration AD and CVD Centralized Electronic Service System (IA ACCESS) to AD and CVD Centralized Electronic Service System (ACCESS). The website location was changed from <http://iaaccess.trade.gov> to <http://access.trade.gov>. The Final Rule changing the references to the Regulations can be found at: 79 FR 69046 (November 20, 2014).

because the estimated weighted-average dumping margins for Inmax Sdn. Bhd. and Region are not zero, *de minimis*, or determined entirely under section 776 of the Act, the Department has estimated the “all-others” rate in this preliminary determination by weight-averaging the estimated weighted-average dumping margins calculated for those two respondents, based on publicly-ranged data.<sup>6</sup>

#### Preliminary Determination

In accordance with section 733(d)(1)(A)(i) of the Act, the Department calculated estimated weighted-average dumping margins for the individually investigated exporters and producers of subject merchandise, listed below. The Department preliminarily determines that the following estimated weighted-average dumping margins exist for these individually investigated exporters and producers:

Exporter/Producer	Weighted-Average Dumping Margin (percent)
Inmax Sdn. Bhd.	2.14
Region International Co. Ltd. and Region System Sdn. Bhd.	2.56
Tag Fasteners Sdn. Bhd.	39.35
All Others	2.20

#### Verification

As provided in section 782(i)(1) of the Act, the Department intends to verify the information submitted by Inmax Sdn. Bhd. and Region prior to making a final determination in this investigation.

#### Disclosure and Public Comment

We will disclose the calculations performed to parties in this proceeding within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

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<sup>6</sup> See “Antidumping Duty Investigation of Certain Steel Nails from Malaysia; Preliminary Determination Calculation for the All-Others Rate,” dated concurrently with this determination.

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.<sup>7</sup> Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce. All documents must be filed electronically using ACCESS. An electronically filed request must be received successfully in its entirety by ACCESS, by 5:00 p.m. Eastern Standard Time, within 30 days after the date of publication of this notice.<sup>8</sup> Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

#### Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2) of the Act, Inmax and Region requested that the Department postpone the final determination and extend provisional measures from four months to six months. Additionally, Inmax and Region requested to extend the application of the

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<sup>7</sup> See 19 CFR 351.309.

<sup>8</sup> See 19 CFR 351.310(c).

provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a six-month period. Pursuant to a request from Inmax and Region and in accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(2), we will make our final determination no later than 135 days after the date of publication of this preliminary determination.<sup>9</sup> The suspension of liquidation described below will be extended accordingly.

#### Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of certain steel nails from Malaysia as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*.

Pursuant to 19 CFR 351.205(d), we will instruct CBP to require a cash deposit equal to the weighted-average amount by which the normal value exceeds export price, as indicated in the chart above.<sup>10,11</sup> These suspension of liquidation instructions will remain in effect until further notice.

#### International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary affirmative determination of sales at LTFV. Because the preliminary determination in this proceeding is affirmative, section 735(b)(2) of the Act requires that the ITC make its final

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<sup>9</sup> See also 19 CFR 351.210(b)(2) and (e); see also Letter from Inmax and Region International Co., Ltd. to the Department, regarding “Certain Steel Nails from Malaysia; Extension Request for Final Results” (December 9, 2014).

<sup>10</sup> See *Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations*, 76 FR 61042 (October 3, 2011).

<sup>11</sup> Because the preliminary calculated countervailing duty rates in the companion countervailing duty investigation attributable to export subsidies were *de minimis* for both respondents, we did not adjust these cash deposit rates to account for export subsidies. See *Certain Steel Nails from Malaysia: Preliminary Negative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 79 FR 65179, 65180 (November 3, 2014).

determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of certain steel nails from Malaysia before the later of 120 days after the date of this preliminary determination or 45 days after our final determination. Because we are postponing the deadline for our final determination to 135 days from the date of publication of this preliminary determination, as discussed above, the ITC will make its final determination no later than 45 days after our final determination.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: December 17, 2014.

**Ronald K. Lorentzen,**  
*Acting Assistant Secretary  
for Enforcement and Compliance.*

## **Appendix I**

### **Scope of the Investigation**

The merchandise covered by this investigation is certain steel nails having a nominal shaft length not exceeding 12 inches.<sup>12</sup> Certain steel nails include, but are not limited to, nails made from round wire and nails that are cut from flat-rolled steel. Certain steel nails may be of one piece construction or constructed of two or more pieces. Certain steel nails may be produced from any type of steel, and may have any type of surface finish, head type, shank, point type and shaft diameter. Finishes include, but are not limited to, coating in vinyl, zinc (galvanized, including but not limited to electroplating or hot dipping one or more times), phosphate, cement, and paint. Certain steel nails may have one or more surface finishes. Head styles include, but are not limited to, flat, projection, cupped, oval, brad, headless, double, countersunk, and sinker. Shank styles include, but are not limited to, smooth, barbed, screw threaded, ring shank and fluted. Screw-threaded nails subject to this proceeding are driven using direct force and not by turning the nail using a tool that engages with the head. Point styles include, but are not limited to, diamond, needle, chisel and blunt or no point. Certain steel nails may be sold in bulk, or they may be collated in any manner using any material. If packaged in combination with one or more non-subject articles, certain steel nails remain subject merchandise if the total number of nails of all types, in aggregate regardless of size, is equal to or greater than 25.

Excluded from the scope of this investigation are certain steel nails packaged in combination with one or more non-subject articles, if the total number of nails of all types, in aggregate regardless of size, is less than 25.

Also excluded from the scope of this investigation are steel nails that meet the specifications of Type I, Style 20 nails as identified in Tables 29 through 33 of ASTM Standard F1667 (2013 revision).

Also excluded from the scope of this investigation are nails suitable for use in powder-actuated hand tools, whether or not threaded, which are currently classified under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7317.00.20.00 and 7317.00.30.00.

Also excluded from the scope of this investigation are nails having a case hardness greater than or equal to 50 on the Rockwell Hardness C scale (HRC), a carbon content greater than or equal to 0.5 percent, a round head, a secondary reduced-diameter raised head section, a centered shank, and a smooth symmetrical point, suitable for use in gas-actuated hand tools.

Also excluded from the scope of this investigation are corrugated nails. A corrugated nail is made up of a small strip of corrugated steel with sharp points on one side.

Also excluded from the scope of this investigation are thumb tacks, which are currently classified under HTSUS 7317.00.10.00.

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<sup>12</sup> The shaft length of certain steel nails with flat heads or parallel shoulders under the head shall be measured from under the head or shoulder to the tip of the point. The shaft length of all other certain steel nails shall be measured overall.



Certain steel nails subject to this investigation are currently classified under HTSUS subheadings 7317.00.55.02, 7317.00.55.03, 7317.00.55.05, 7317.00.55.07, 7317.00.55.08, 7317.00.55.11, 7317.00.55.18, 7317.00.55.19, 7317.00.55.20, 7317.00.55.30, 7317.00.55.40, 7317.00.55.50, 7317.00.55.60, 7317.00.55.70, 7317.00.55.80, 7317.00.55.90, 7317.00.65.30, 7317.00.65.60 and 7317.00.75.00. Certain steel nails subject to this investigation also may be classified under HTSUS subheading 8206.00.00.00.

While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

## **Appendix II**

### **List of Topics Discussed in the Preliminary Decision Memorandum**

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